

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KEVIN MICHAEL BEDNAR,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

EDWARD CURANOVIC,

Respondent-Appellant.

UNPUBLISHED

March 6, 2007

No. 272974

Oakland Circuit Court

Family Division

LC No. 05-703363-NA

Before: Hoekstra, P.J., and Markey and Wilder, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Respondent argues that he was denied the effective assistance of counsel when he pleaded no contest to allegations that would not have supported termination of his parental rights. We disagree.

Respondent's claim of ineffective assistance is grounded in the assumption that he pleaded no contest to the original complaint that contained no allegations against him. However, the record clearly shows that the proceedings involving respondent were based on a supplemental petition that sought termination of respondent's parental rights based on specific allegations against him. The trial court previously acquired jurisdiction over the child on allegations made against the child's mother in the original complaint. Having acquired jurisdiction over the child, the trial court was permitted to proceed with termination of respondent's parental rights on the grounds alleged in the supplemental petition. See *In re CR*, 250 Mich App 185, 202-205; 646 NW2d 506 (2002). Thus, respondent is not able to show prejudice, i.e., that his counsel's error affected the outcome of the proceedings. See *People v Pickens*, 446 Mich 298, 302-303; 521 NW2d 797 (1994) (holding that the reversal is justified when "counsel's performance [falls] below an objective standard of reasonableness, and . . . the representation so prejudiced the defendant as to deprive him of a fair trial").

Respondent also argues that the trial court erred in accepting respondent's no contest plea to the supplemental petition because there was no factual basis for the plea. The parties agreed to use the supplemental petition to establish a factual basis for the plea. Taking the allegations contained in the petition as true, the statutory bases for termination were established. According to his psychological evaluation, respondent was in serious need of mental health services yet failed to address this need or meaningfully participate in services, such as parenting classes, individual counseling, and a psychiatric evaluation. He also failed to drop random drug screens. In addition, respondent never contacted petitioner with an address for his new home or employment verification. Most importantly, respondent only visited his child one time since March 8, 2005. These allegations supported the statutory grounds for termination. Accordingly, the trial court did not err in concluding that a factual basis had been established for respondent's no contest plea.

The trial court also did not clearly err in its best interests determination. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 352-353, 356-357; 612 NW2d 407 (2000). Respondent had no visible means of supporting his child and failed to visit his son more than two or three times over the course of more than a year.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Jane E. Markey
/s/ Kurtis T. Wilder